

### REMARKS

The Office Action of July 9, 2008, has been carefully considered.

Clarifying amendments have been made to Claims 1, 27 and 28. Claims 1 and 27 are now directed to an escape mask assembly comprising a mask in the form of a hood foldable to pocket size, and a separate, circumferential elastic sealing and adjusting means not connected to the bag, to adjust and seal the hood around the neck such that the exhalation valve is opposite the lips and mouth of the user, and air space within the hood is reduced to a minimum. A description of the sealing means as elastic is found in Claim 18, while the other amendments are supported by the specification, generally at paragraphs [0015], [0018], [0035] and [0036] of the application as published.

Claims 1, 6, 8, 12, 16, 23 and 27 have been rejected under 35 USC 102(b) as anticipated by or under 35 USC 103(a) as obvious over Richardson. In view of the incorporation of the elastic sealing means into Claim 1 and 27, this rejection is considered to have been rendered moot, and the basic rejection is considered to be the rejection of Claims 18-20 and 28 under 35 USC 103(a) over Richardson in view of Siberell.

The claimed invention differs from Richardson in the use of a separate, circumferential and elastic sealing means. Richardson refers to its earlier patent, U.S. 5,452,712, which discloses either sealing straps or a wrap-around strap, both of which are stretchable, but which are fixed to the mask (column 4, line 24). The sealing strap in the cited Richardson '716 patent is a drawstring 60 inserted into a sleeve fixed to the mask. The incorporation of the drawstring into the sleeve is considered to be the improvement in Richardson '716. Richardson does not address the problem of

minimizing the open space within the mask to prevent carbon dioxide accumulation; his primary concern is to prevent contaminated air from entering into the interior of the hood (column 4, line 48).

In fact, none of the prior art references relating to protective hoods even hints at using a separate, detached circumferential elastic band. Siberell utilizes a drawstring which is open-ended, as is the drawstring of Richardson, but which is elastic; a separate, detached and circumferential elastic band is not disclosed or suggested. The unattached, circumferential elastic band of the invention enables the mask to be adjusted for all sizes and shapes of the head, enables adjusting the mask to place the mouth and lips opposite the filter and allows adjustment of the bag to leave a minimum of space in the interior of the mask.

In the response to arguments found on page 7 of the Office action, it is stated that because the sealing means of Richardson is removable, its position with respect to the mask is not fixed (i.e. the sealing means can be slid throughout the sleeve even when being used to secure the mask and can subsequently be removed altogether, and therefore the sealing means can be considered not to be attached or connected to the bag. Moreover, it is stated that "the sealing means is fully capable of being used without being inserted through the sleeve (i.e., if the wearer was in a hurry to don the hood and did not have time to thread the sealing means through the sleeve, the sealing means could be placed over the head and secured at any location around the neck of the wearer by securing the holder 62)."

The interpretation of the references set forth in the Office Action is not only not disclosed or suggested in any way by either Richardson or Siberell, but is specifically contrary to the references. Thus, both references teach

utilizing a drawstring threaded through a sleeve, and in fact, Richardson specifically states that the drawstring is "preferably through a channel between two layers of material" (column 4, lines 34-35). While the drawstring of Richardson could of course be removed, Richardson does not teach removing the drawstring, and in fact removing the drawstring would be contrary to the teaching of Richardson, as well as contrary to the teaching of Siberell. In these references, the drawstring would normally be located in the sleeve, so that if one were in a hurry, the drawstring is already attached and does not need to be threaded. Indeed, given the teachings of these references, the inventiveness of the claimed invention becomes evident. Applicant has discovered the advantage of *not* utilizing an embedded drawstring, but in using a totally separate and *circumferential* band.

Since both of the cited references teach using an embedded and open ended drawstring, the only means by which the use of separate, circumferential elastic band would be obvious is based upon the very teaching of the present application.

When utilizing the mask of Richardson in time of need, one would never contemplate removing the drawstring from the sleeve to adjust the mask. Moreover, the instructions accompanying such a mask would only relate to adjustment of the mask to prevent noxious gases from entering the mask, but not to minimize the open space in the mask, a need which Richardson does not address.

Siberell relates to a drawstring for a garment, not a hood to be worn over the head and sealed around the neck. While it might be obvious to replace a non-elastic drawstring with an elastic drawstring in some circumstances, Siberell also teaches an open-ended drawstring, a circumferential band not being taught in either of the cited references.

Withdrawal of this rejection is requested.

Rejections have also been made under 35 USC 103(a) of Claim 2 over Richardson in view of McGuinness, of Claims 9-11 and 13 over Richardson in view of Wen, and of Claim 15 over Richardson in view of Courtney. As discussed in the previous Amendment, none of these secondary references cures the defects of the Richardson or Siberell references, and withdrawal of this rejection is requested.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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